

NOTICE

The Securities and Exchange Commission (SEC) hereby publishes the following draft of the Securities and Exchange Commission (Private Placement of Debt Securities) Rules, 2012 in the newspaper as per requirement of sub-section (1) of section 33 of the Securities and Exchange Ordinance, 1969 for eliciting public opinion, etc.

Opinion, advice or objection, if any thereon will have to be sent to the following address within two weeks from the date of publication of the draft.

Chairman
Securities and Exchange Commission
Jiban Bima Tower (14, 15, 16 and 20th Floor)
10 Dilkusha C/A
Dhaka-1000

Draft Rules

In exercise of the power conferred by sub-section (1) of section 33 of the Securities and Exchange Ordinance, 1969 (XVII of 1969), the Securities and Exchange Commission makes, after prior publication, the following rules, namely: -

- 1. Short title and application.**-(1) These rules may be called the “Securities and Exchange Commission (Private Placement of Debt Securities) Rules, 2012”.
- (2) These rules shall be applicable for the issuance of debt securities by an issuer, unless otherwise it is either exempted by the Securities and Exchange Commission or governed/regulated by the Commission through any other rules, notification or order issued from time to time.
- (3) These Rules shall be applicable for issuance of debt securities through private placement.

- (4) No issuer shall make an offer of debt securities or shall publish an information memorandum/offer document for issuance of debt securities unless it obtains consent of the Commission.
- (5) These rules shall come into force with immediate effect.

2. Definitions. – (1) In these rules, unless the context otherwise requires,-

- (a) **“Commission”** means the Securities and Exchange Commission (SEC) established under the Securities Exchange Act of 1933 (1933 Act 15 USC 77b);
- (b) **“debt securities or debt instruments”** means securities that evidence the indebtedness of the issuer to the investors in the form of bond, debt, or any other instrument of indebtedness, whether secured or not;
- (c) **“deed of trust”** means a deed executed by the issuer in favor of the trustees named therein for the benefit of the holders of debt securities;
- (d) **“equity”** means the aggregate amount of tangible assets of the issuer net of total liabilities calculated on the basis of the audited financial statements of the issuer which is included in the IM;
- (e) **“Information Memorandum or IM”** means any document including an electronic document described or issued as an offer document or prospectus and includes any notice, circular, advertisement or other documents inviting offers from the investors for the subscription or purchase of any debt securities issued under these rules;
- (f) **“investor”** means a person holding debt securities issued under these rules;
- (g) **“issue”** means an offer of debt securities by an issuer under these rules;
- (h) **“issuer”** means an entity that intends to raise or has raised long term finance by issuing debt securities which may be a company as defined in the Securities Exchange Act of 1994 (1994 Act 18 USC 77b) or the government or public or local authorities or development or credit institutions;
- (i) **“issue size”** means the aggregate amount of face value of the debt securities to be issued;

- (j) **“private placement”** means offer of securities to any person in a way other than public offering;
- (k) **“promoter or sponsor”** of an entity or a proposed company means a person who, acting alone or in concert with other persons, is initiating or directing, or has within one year initiated or directed, the organization of such entity;
- (l) **“rating agency”** means a Credit Rating Agency registered with the Commission under the Credit Rating Companies Rules, 1996;
- (m) **“schedule”** means a schedule appended to these rules;
- (n) **“secured debt instrument”** means debt securities, in which the issuer owes the holders an indebtedness and which is secured by first claims over all present and future assets of the issuer;
- (o) **“debt holder”** means the person in whose name a debt is registered at Central Depository Bangladesh Limited or if the debts are not deposited in the depository, the person shown on the records of the issuer;
- (p) **“obligor”** means a person having any obligation upon the debts, whether as debtor, guarantor, provider of credit enhancement, issuer of conversion or warrant securities, or otherwise;
- (q) **“paying agent”** means a bank appointed to pay to debt holders all payments made by the issuer and to maintain all records required to be kept by the trustee;
- (r) **“premium”** means an amount over the principal amount;
- (s) **“trustee”** means a company as defined in the ঠKv¼úvbX AvBb, 1994 (1994 m‡bi 18 bs AvBb) or a corporation or a statutory body or any other institution, a bank as defined in the eˆsK †Kv¼úvb AvBb, 1991 (1991 m‡bi 14 b¼† AvBb) or a financial institution as defined in the Avw_ℝ cŹZôvb AvBb, 1993 (1993 m‡bi 27 b¼† AvBb) registered under rule 9 of these rules to act as trustee to the issue of debt securities;
- (t) **“unsecured debt instrument”** means debt securities, in which the issuer owes the holders an indebtedness and which is secured by claims over all present and future assets of the issuer subsequent to all secured lenders/investors.

(2) Words and expressions used herein and not defined, but defined in the Securities and Exchange Ordinance, 1969 (XVII of 1969), $\mathbb{W}\mathbb{M}\mathbb{K}\mathbb{D}\mathbb{W}\mathbb{I}\mathbb{W}\mathbb{J}\mathbb{R}$ I G- $\mathbb{P}\mathbb{A}$ $\mathbb{K}\mathbb{U}\mathbb{G}\mathbb{K}\mathbb{B}$ AvBb, 1993 (1993 $\mathbb{m}\mathbb{v}\mathbb{t}\mathbb{j}$ i 15 bs AvBb), $\mathbb{W}\mathbb{C}\mathbb{W}\mathbb{R}\mathbb{U}\mathbb{W}\mathbb{I}$ AvBb, 1999 (1999 $\mathbb{m}\mathbb{t}\mathbb{b}\mathbb{i}$ 11 $\mathbb{b}\mathbb{a}\mathbb{f}$ AvBb), Insurance Act, 2010 (Act No. XIII of 2010), $\mathbb{e}\mathbb{v}\mathbb{s}\mathbb{K}$ $\mathbb{t}\mathbb{K}\mathbb{v}\mathbb{a}\mathbb{u}\mathbb{v}\mathbb{b}$ AvBb, 1991 (1991 $\mathbb{m}\mathbb{t}\mathbb{b}\mathbb{i}$ 14 $\mathbb{b}\mathbb{a}\mathbb{f}$ AvBb), $\mathbb{A}\mathbb{v}\mathbb{v}\mathbb{R}$ $\mathbb{c}\mathbb{H}\mathbb{Z}\mathbb{O}\mathbb{v}\mathbb{b}$ AvBb, 1993 (1993 $\mathbb{m}\mathbb{t}\mathbb{b}\mathbb{i}$ 27 $\mathbb{b}\mathbb{a}\mathbb{f}$ AvBb), $\mathbb{t}\mathbb{K}\mathbb{v}\mathbb{a}\mathbb{u}\mathbb{v}\mathbb{b}$ AvBb, 1994 (1994 $\mathbb{m}\mathbb{t}\mathbb{b}\mathbb{i}$ 18 $\mathbb{b}\mathbb{a}\mathbb{f}$ AvBb) shall have the same meanings respectively assigned to them in the said Acts and the Ordinance, and the Rules and Regulations issued hereunder.

3. Conditions to be fulfilled prior to make an application for issuance of debt securities. – An issuer may make an application to the Commission for issuance of debt securities, subject to fulfillment of the following: -

- (1) Total debt of the issuer, including the proposed issue, does not exceed 80% of its total tangible assets:

Provided that in case the debt-equity/ capital adequacy ratio of an issuer is determined by its primary regulator, the issuer fulfills that requirement:

Provided further that the Commission may consider variation of the above-mentioned ratio, if it thinks fit taking into account the industry scenario of the issuer.

- (2) The issuer has a good track record of profitability and liquidity or its forecast financial position indicates a significant profitability, liquidity and ability to pay-back with reasonable basis of making such forecasts.
- (3) The issue is rated by a credit rating company and its periodical surveillance rating shall be done by the said rating company up to the full and final redemption/conversion of the debt securities:

Provided that, in case of private placement of debt securities, credit rating may not be required if the investor(s) has already provided NOC to the effect that they are comfortable to invest without a credit rating.

- (4) The issuer has a valid enforceable interest over its assets and the right to create charges thereon in course of issuance of the debt instruments.
- (5) The issuer has obtained necessary permissions or consents from its primary regulator in order to issue of debt securities, if required.
- (6) The issuer has appointed a trustee for the issue:

Provided that, in case of private placement of debt securities, appointment of trustee may not be required if the issuer has already entered into such agreements with the investor(s) that the investor(s) are comfortable to invest without a trustee, but in such a case the issue shall be governed by the terms and conditions of the agreements among the issuer and the investor(s).

- (7) The financial statements of the issuer is prepared as per Bangladesh Accounting Standards (BAS) as applicable in Bangladesh, and audited as per Bangladesh Standards of Auditing (BSA).
- (8) The issue has been approved by the Board of Directors/governing body of the issuer and in case the issuer is a listed company, by the shareholders in a general meeting.
- (9) In case the issuer is a listed company, the information concerning the issue is disseminated as price sensitive information immediately upon Board decision as well as upon approval at the general meeting, in accordance with the relevant notifications issued by the Commission. There should be an explicit announcement while disseminating the information that the issue shall be subject to approval of the Commission.
- (10) Trustee to the issue, if applicable, has examined all the documents including the legal and title documents and has provided a due diligence certificate as per Schedule 'D'.

4. Application for consent to the issue of debt securities. – (1) An issuer (hereinafter also referred to as the applicant) intending to issue debt securities shall make an application for consent to the Commission as per Schedule ‘A’.

(2) The applicant shall pay an amount of taka ten thousand (nonrefundable) as application fee, along with the application, by way of pay order or demand draft issued in favor of the Securities and Exchange Commission.

(3) With the said application, the applicant shall submit the following documents along with the information memorandum containing the audited financial statements within 120 days of the end of the period for which the said financial statements is prepared, namely:-

- (a) certified copy of memorandum and articles of association or such certified documents, as the case may be;
- (b) certified copy of certificate of incorporation and certificate of commencement of business, where applicable;
- (c) certified copy of particulars of directors or particulars of owners, as the case may be;
- (d) certified copy of return of allotment of shares and annual summary of share capital, where applicable;
- (e) original auditors’ report with the related audited financial statements of the issuer;
- (f) purpose of issuance of securities and plan to use of proceeds thereof;
- (g) resolution of the board of directors/promoters resolution deciding to issue debt securities;
- (h) minutes of the general meeting approving the issue, in case the issuer is a listed company;
- (i) copy of disclosures of Price Sensitive Information, in case the issuer is a listed company;

- (j) banker's certificate/ bank statement showing deposit of an amount equivalent to the owners' stake in the issuer/ auditor's certificate in that regard attested by the Managing Director/ Chief Executive Officer;
- (k) certified copy of vendor's agreement in case of capital raised in other than cash;
- (l) short description of business;
- (m) credit rating report of the issue;
- (n) no objection certificate/clearance from regulatory authority(s) concerned, if required;
- (o) draft Information Memorandum prepared as per Schedule 'B';
- (p) draft Deed of Trust prepared as per Schedule 'C';
- (q) copy of registration certificate issued by the Commission to the trustee to act as trustee to the issue of debt securities, where applicable;
- (r) Due diligence certificate of the Trustee as per Schedule 'D';
- (s) Repayment structure of the debt securities in hard and electronic forms.

5. Consideration of the application and decision thereon.- (1) On receipt of the application under rule 4, the Commission shall examine it, and if satisfies that all the requirements of rule 4 are fulfilled, the Commission shall accord consent in writing to the issue of debt securities, as sought for, within 07 (seven) working days of receipt of the application with all required documents.

(2) If the Commission finds that the application does not fulfill all the requirements of rule 4, it may, within 15 (fifteen) days of receipt of the application, direct the applicant to fulfill the requirements within such time as the Commission may determine, and on fulfillment of such requirements the Commission shall accord the consent as prayed for, within 07 (seven) working days of such fulfillment.

(3) The Commission may call for further information, in addition to the requirements of rule 4, if it so deems necessary.

(4) If the Commission finds that the application does not fulfill all the requirements of rule 4, or where a direction to fulfill such requirements has been given under sub-rule (2) and/or (3) and the applicant has failed to fulfill such requirements, it may reject the application, stating the reasons thereof.

6. Review.- The applicant whose application has been rejected by the Commission under sub-rule (4) of rule 5, may apply to the Commission for review of its decision within thirty days from the date of such rejection, and the decision of the Commission thereon shall be final.

7. Consent Fee.- (1) If the Commission decides to accord consent to the issue, the applicant shall pay, within fifteen days of issuance of the letter of intent, a fee at the rate of 0.10% on the total face value of securities to be issued through a bank draft or payment order issued in favour of the Securities and Exchange Commission.

(2) If the applicant fails to pay the fee under sub rule (i) within the specified time, the consent shall not be accorded.

8. Conditions to be fulfilled after getting consent for issuance of debt securities. –

(1) Before issuance of the debt securities, the following requirements shall adhere to upon obtaining consent of the Commission, namely:-

(a) The Issuer shall execute the Trust Deed as approved by the Commission in favor of the Trustee and register the same under the Registration Act, 1908 (XVI of 1908) and shall submit a copy of the registered trust deed attested by the Chief Executive Officers of the Issuer and the Trustee to the Commission;

- (b) The Issuer shall create charges over the assets through execution of Charge Document(s) in favor of the Trustee adhering due legal procedures;
 - (c) The Issuer shall execute Guarantee(s) in favor of the Trustee through observation of required legal procedures;
 - (d) The Trustee shall submit a report to the Commission to the effect that all charges and or guarantee(s) as per the Trust Deed, Subscription Agreements and IM have been executed properly;
 - (e) The IM and the Deed of Trust shall be placed in electronic form on the websites of the issuer and the trustee up to closing of subscription.
- (2) The consent for issuance of debt securities shall remain valid for one year from the date of consent or for such a period as determined by the Commission in the consent letter. The issuer shall submit a status report of the issue to the Commission within 30 days of issue of the securities or expiry of the said period, whichever comes earlier.
- (3) The issuer shall submit bank statement and banker's certificate to the Commission upon completion of the subscription.
- (4) The issuer shall complete audit of its financial statements and, hold its annual general meeting within such period as may be specified by the Commission at the time of according the consent.
- (5) The issuer shall submit a copy of such audited financial statements and a copy of its annual report and the minutes of its annual general meeting within fourteen days of the completion of the audit or, as the case may be, holding of the annual general meeting.
- (6) The Commission may, on application and on good cause shown, extend the time for auditing the financial statements or submission of the financial statements to the Commission, as the case may be.

(7) The said company shall inform the Commission any material change that affects the affairs of the company, along with the supporting documents and evidences.

9. Registration of Trustee. – (1) The trustee of a debt security shall be registered by the Commission under these rules and no person shall act as trustee to an issue without such registration.

(2) The proposed trustee shall apply for registration to the Commission as per Schedule ‘E’ along with required information and documents and application fee of taka five thousand only.

(3) The proposed trustee shall have the following eligibility criteria to apply for registration, namely:-

(a) Have a minimum paid up capital of taka one hundred million;

(b) Have adequate manpower and logistic support to discharge its duties as a trustee;

(c) Have appointed a compliance officer for the trust having a minimum of five years service experience in the financial market;

(d) Neither the trustee, nor any of its affiliates or directors have any relation with the issuer;

(e) The trustee shall not act as arranger of the issue and shall not pursue any investor to or not to invest;

(f) Have no track record of default, negligence or non compliance with any of the securities laws for discharging its duties, if it is in any way connected with the securities market.

(4) The trust deed shall be preserved in the trustee’s office for observation of the investors.

(5) The trustee shall have to perform the following duties and responsibilities in addition to those described in the deed of trust concerned, namely:-

- (a) The trustee shall act on behalf and for the exclusive interest of the investors;
- (b) The trustee shall ensure compliance of the issuer the requirements of these rules;
- (c) The trustee shall monitor timely payment of all dues of the issuer to the investors in terms of the IM or other terms and conditions of the issue of debt securities;
- (d) The trustee shall ensure creation of charges by the issuer over collateral securities and obtaining other securities/guarantees in favour of the trustee;
- (e) The trustee shall enforce its rights, over the collateral securities and other securities/ guarantees when it is necessary to do;
- (f) The trustee shall call the investors' meeting and shall enforce the decisions within such time of any default or any act of the issuer which may affect the interest of the investors as specified in the deed of trust and in the IM;
- (g) Delay in payment of any dues by the issuer, which is not approved by the trustee shall be treated as final default, in such a case the trustee shall enforce its rights over the collateral securities and other securities/ guarantees of the issuer observing due legal process and thereafter the trustee shall dispose-off the same to pay the proceeds proportionately to the investors after deduction of costs related thereto;
- (h) In case the delay is approved by the trustee for a certain period upon any reasonable ground, the trustee shall ensure repayment of the dues within the approved delay period along with interest for the delay period at a rate of 3% p.a. above the usual rate of return of the debt instrument;
- (i) The trustee shall submit an annual compliance report to the Commission regarding the activities of the issuer including repayment of dues to the investors;
- (j) The trustee shall take adequate steps for redressal of grievances of the investors within one month of the date of receipt of the complaints and he shall keep the

Commission informed about the number, nature and other particulars of the complaints received and the manner in which such complaints have been redressed;

(k) The trustee shall be liable to sue or to be sued on behalf of the investors.

(6) The trust deed or appointment of the trustee can not be varied or modified without prior approval of the Commission.

(7) The Commission may, considering the appeal of two third of the securities holders or in the event of negligence of its duties or in the public interest, if it thinks fit, replace the trustee of an issue by a new trustee:

Provided that the trustee shall be given an opportunity of being heard before cancellation of its appointment.

(8) A trustee can resign with prior approval of the Commission which shall not be effective until appointment of a new trustee and handing over charges by the resigning trustee.

(9) A trustee shall cease to exist as trustee of an issue upon full and final settlement of the securities.

(10) The trustee for an issue shall be entitled to an annual trustee fee of maximum 0.25% of the outstanding amount of the debt securities.

10. Consideration of the application of trustee and decision thereon. – (1) On receipt of the application under rule 9, the Commission shall examine it, and if it is satisfied that all the requirements of rule 9 are fulfilled, it shall accord registration to the trustee to act as trustee to the issue, as sought for, within thirty days of receipt of the application.

(2) If the Commission finds that the application does not fulfill all the requirements of rule 10, it may, within twenty days of receipt of the application, direct the

applicant to fulfill the requirements within such time as the Commission may determine, and on fulfillment of such requirements, the Commission shall accord the consent as prayed for within thirty days of such fulfillment.

- (3) The Commission may call for further information, in addition to the requirements of rule 9, if it so deems necessary.
- (4) If the Commission finds that the application does not fulfill all the requirements of rule 9, or where a direction to fulfill such requirements has been given under sub-rule (2) and (3) and the applicant has failed to fulfill such requirements, it may reject the application, stating the reasons thereof.
- (5) If the Commission decides to award registration to the trustee, the trustee shall pay, within fifteen days of issuance of the registration certificate, a registration fee of Tk. 50,000.00 (taka fifty thousand) only through a bank draft or payment order issued in favor of the Securities and Exchange Commission.

11. Substitute trustee.— (1) If the trustee resigns or fails to perform its duties under the deed of trust or these rules, the debt security holders' association shall appoint a substitute trustee.

- (2) The substitute trustee shall meet the qualification requirements of rule 3 of these rules.
- (3) The trustee which is replaced shall do all that is necessary to substitute the new trustee in its place.

12. Duties of the trustee upon a default.—(1) If an event of default as defined in the deed of trust is known to the trustee, the trustee shall mail a notice of the default within seven days after it occurs to debt holders, each stock exchange upon which the debts are traded, and the Commission.

- (2) If, within ten days after mailing of the notice required by sub-rule (1), the officers of the debt holders' association shall inform the trustee that the debt security

holders' association will meet to consider the default, the trustee shall not act until instructed in writing by the debt holders' association.

- (3) If no meeting of the debt security holders' association is called within ten days after mailing of the notice required by sub-rule (1) or the debt security holders' association issues no written instructions to the trustee within thirty days after mailing of the notice, the trustee shall proceed as required by the deed of trust. If the debt security holders' met and issue written instructions to the trustee, the trustee shall follow those instructions.
- (4) The trustee shall incur no liability if it follows the written instructions of the debt security holders' association or, if the debt security holders' association issues no written instructions, the procedures required by the deed of trust.
- (5) If all efforts of negotiation by the trustee fail, it can take legal action against the issuer for recovery of the outstanding including principal and interest of the debt securities as per existing laws.

13. Fees and expenses of the trustee.— The issuer will pay the fees and expenses of the trustee.

14. Arbitration.—Any dispute between or among the issuer, trustee, debt security holders' association, debt security holders' advocate or any other person bound by the deed of trust shall be arbitrated according to the Arbitration Act, 2001.

15. Powers of the Commission.—(1) The Commission shall have the power, after notice and an opportunity to be heard, to issue an order requiring any trustee under the deed of trust to comply with the provisions of these rules or an deed of trust to which it is a party. The Commission may act upon its own motion or upon the request of one or more debt security holders or any party to the deed of trust.

(2) If any issuer or trustee violates any of the provisions of these rules or furnishes false, incorrect, misleading information or suppresses any information or neglects to discharge its duties, the Securities and Exchange Commission may take appropriate action under the Securities and Exchange Ordinance, 1969 or any other securities laws.

(3) The refusal or failure of any obligor to comply with an order under sub-rule (1) shall also be a violation of these rules.

16. Penalties for violations of these rules.—(1) Any person who violates the provisions of these rules shall be subject to civil and criminal penalties in accordance with law.

(2) No civil penalty may be imposed by the Commission nor criminal proceedings begun without notice and an opportunity to be heard. The Commission shall make a record of its proceedings.

(3) Appeals from civil penalties assessed by the decision of the Commission shall be to the Commission and then to the superior court.

Schedule “A”

(See Rule: 4)

Format and contents of the Application –

To,

The Chairman

Securities and Exchange Commission

1. Name of the issuer:
2. Legal status of the issuer:
3. Address and telephone numbers of the issuer:
4. Name, address and telephone number of the contact person:
5. Date of incorporation (in case of companies):
6. Date of commencement of business:
7. Authorized capital (in case of companies):
8. Paid-up capital (in case of companies):
9. Total equity of the issuer:
10. Net worth of the issuer:
11. Total amount of debt due from the issuer:
12. Type of collateral securities being offered:
13. Type of debt instruments to be issued:
14. Face value, issue price and number of securities being offered and the total issue amount:
15. Coupon rate/discount rate and YTM:
16. Tenor/Maturity:
17. Mode of redemption:
18. Rate of Return:
19. Applicable tax rate:
20. Period within which securities to be issued:

21. Name of the Trustee:
22. Paid-up capital of the Trustee:
23. Net worth of the Trustee:
24. Credit Rating Status of the issue:
25. Rating Assigned by:
26. Date of audited accounts, which is included in the IM:

Sd/-

Chief Executive Officer

Name of the Issuer

Schedule “B”

(See Rule: 4)

Format and contents of the Information Memorandum –

1. Material Information:

- (1) In addition to the information specifically required by these rules, the IM shall contain all material information necessary to enable the investors to make an informed assessment of the issue, the issuer, the trustee, the securities being offered, the rights and obligations of the investors, the issuer and the trustee attaching to the debt securities being offered and full disclosure about the financial, corporate, management and other affairs of the issuer.
- (2) The Commission may require disclosure of additional information in the IM as it considers appropriate in a particular issue, and the issuer shall comply it.
- (3) If the Commission requires such information, it shall inform the issuer of the additional information in writing.

2. Information to be included in the IM-

- (1) Cover Page of the IM: On the cover page of the IM, the following information shall be furnished, namely:-
 - (a) Name of the issuer:
 - (b) Name of the trustee:
 - (c) Type of securities being offered:
 - (d) Face value, issue price and number of securities being offered and the total issue amount:
 - (e) Coupon rate/discount rate and YTM:
 - (f) Issue date of the IM:
 - (g) Credit rating status of the issue:
 - (h) The following statement:

“If you have any query about this document, you may consult the issuer and the trustee”.

- (2) Table of Contents.
- (3) Report to the Investors.
- (4) Risk Factors and Management’s Perception about the Risks: All risk factors and management’s perception about the same are to be clearly stated which shall include, among others, namely:–
 - (a) interest rate risks;
 - (b) exchange rate risks;
 - (c) non-repayment risks;
 - (d) prepayment, call or refunding risks;
 - (e) security risks;
 - (f) liquidity risks;
 - (g) management risks;
 - (h) operational risks;
 - (i) business risks;
 - (j) industry risks;
 - (k) market and technology-related risks;
 - (l) risks related to potential or existing government regulations;
 - (m) risks related to potential changes in global or national policies.
- (5) Details of the utilization of proceeds. If proceeds are to be utilized for project, details of the project with BEP quantity and capacity utilization at BEP (including all financial costs).
- (6) Features of the debt securities to be issued, namely:-
 - (a) Basic Features of the instrument;
 - (b) Rate of return, Yield to Maturity, Coupon/Discount Rate;
 - (c) Transferability/Liquidity;
 - (d) Prepayment, Call, Refunding, conversion features;
 - (e) Late Redemption;

- (f) Tax Features;
 - (g) Costs related to the issue;
 - (h) Repayment Schedule;
 - (i) Enforcement of charges over securities.
- (7) Description of Collateral Security and type of charges to be created against the issue.
- (8) Rights and obligations of the issuer.
- (9) Rights and obligations of the trustee.
- (10) Rights and obligations of the investors.
- (11) Description of the issuer in respect of the following, namely:-
- a) Capital Structure;
 - b) Business;
 - c) Management;
 - d) Description of encumbered and unencumbered assets with value thereof;
 - e) Profile of Directors/Owners of the issuer;
 - f) Description of assets and liabilities;
 - g) Description of previously issued debt or equity securities.
- (12) Auditors' report along with Audited Financial Statements of the issuer made up to a date not earlier than 180 days from the date of issue of the IM.
- (13) Comparative Financial Statements of the issuer for the last three years or for the period of its commercial operation, as the case may be. If the issuer is not in commercial operation, forecast financial statements for the next five years.
- (14) The following Ratios of the issuer for last three accounting years or for the period of its commercial operation, as the case may be, namely:-
- (a) Current Ratio;
 - (b) Quick Ratio;
 - (c) Times Interest Earned Ratio;

- (d) Break-Even Point (including financial costs);
 - (e) Debt to Equity Ratio;
 - (f) Debt to Total Assets Ratio;
 - (g) Accounts Receivable Turnover Ratio;
 - (h) Inventory Turnover Ratio;
 - (i) Asset Turnover Ratio;
 - (j) Debt Service Coverage Ratio;
 - (k) Gross Margin Ratio;
 - (l) Operating Income Ratio;
 - (m) Net Income Ratio;
 - (n) Return on Assets;
 - (o) Return on Equity;
 - (p) Earnings- Per- Share (EPS);
 - (q) Net Asset Value (NAV) per share.
- (15) Credit Rating Report of the issue.
 - (16) Description of the Trustee.
 - (17) Modus Operandi of the issue including:
 - (a) Application procedure;
 - (b) Allotment;
 - (c) Transfer;
 - (d) Repayment.

Each page of the draft IM to be duly signed and stamped by the chief executive officers of the issuer and the trustee.

Schedule “C”

(See Rule: 4)

Format and contents of the deed of trust –

1. Date of execution:
2. Name and legal status of the parties concerned:
3. Objectives of the issue:
4. Definitions:
5. Relation between the Parties:
6. Governing Laws:
7. Registered Address of the Trust:
8. Description of the Trust:
9. Description of the collateral securities to be charged with the Trustee:
10. Enforcement of charges over the collateral securities:
11. Beneficiaries of the collateral securities:
12. Commencement and Termination of the Trust:
13. Costs involved with the issue and by whom the costs are to be assumed:
14. Description of the Trustee with rights, duties and obligations:
15. Trustee fee:
16. Description of the debt securities to be issued:
17. Modus operandi of the issue:
18. Repayment/redemption features:
19. Mode of transfer/redemption/conversion:
20. Rights, duties and obligations of the Trustee:
21. Rights, duties and obligations of the issuer:
22. Rights and obligations of the investors:
23. Accounts and audit:
24. Term and termination of the Trust deed:
25. Retirement and substitution of the Trustee and appointment of new Trustee:

26. Meeting of holders of the debt securities with power, scope and quorum of the meeting:
27. Amendment provisions of the Trust Deed:

Each page of the draft deed of trust to be duly signed and stamped by the chief executive officers of the issuer and the trustee.

Schedule “D”

(See Rule: 3)

Due Diligence Certificate of the Trustee

To,
The Chairman
Securities and Exchange Commission

**Sub: Issuance of (number & type of the debt securities) of Tk.
..... (face value) each of(Name of the Issuer)**

We, the under-noted trustee to the above-mentioned forthcoming issue, state as follows:

1. We, while act as trustee to the above mentioned issue on behalf of the investors, have examined the draft Information Memorandum, legal and other documents and materials as relevant to our decision; and
2. On the basis of such examination and the discussions with the issuer, it’s directors and officers, and other agencies; independent verification of the statements concerning objects of the issue and the contents of the documents and other materials furnished by the issuer; -

WE CONFIRM THAT:

- (a) all information and documents as are relevant to the issue have been received and examined by us and the draft IM, draft Deed of Trust and draft Subscription Agreement forwarded to the Commission has been approved by us;
- (b) we have also examined all documents of the assets to be charged with the Trust and are satisfied that the assets bear the value, title and charge status as disclosed in the IM;

- (c) while examining the above documents, we find that all the requirements of the Securities and Exchange Commission (Private Placement of Debt Securities) Rules, 2012 have been complied with;
- (d) we shall act as trustee to the issue as mentioned above as per provisions of the Deed of Trust to be executed with the issuer and shall assume the duties and responsibilities as described in the Deed of Trust and in the IM;
- (e) we shall also abide by the Securities and Exchange Commission (Private Placement of Debt Securities) Rules, 2012 and conditions imposed by the Commission as regards of the issue; and
- (f) the above declarations are unequivocal and irrevocable.

For Trustee

Sd/-

Chief Executive Officer

(Name of the Trustee)

Schedule “E”

(See Rule: 9)

Format and contents of the Application for registration of Trustee of a debt security–

To,
The Chairman
Securities and Exchange Commission

1. Information:-

- (a) Name of the applicant:
- (b) Legal status of the applicant:
- (c) Address and telephone numbers of the applicant:
- (d) Name, address and telephone number of the compliance officer for the issue:
- (e) Date of incorporation
- (f) Date of commencement of business:
- (g) Authorized capital:
- (h) Paid-up capital:
- (i) Net worth:

2. Annexure:-

- (a) Certified copy of memorandum and articles of association;
- (b) Certified copy of certificate of incorporation and certificate of commencement of business;
- (c) Certified copy of particulars of directors;
- (d) Certified copy of return of allotment of shares/annual summary of share capital;
- (e) Latest audited financial statements;

- (f) Resolution of the board of directors deciding to act as trustee to the issue;
- (g) An affidavit to the effect that neither the trustee, nor any of its affiliates or directors are anyway connected with the issuer of the proposed debt securities and that it has no track record of default, negligence or noncompliance of any of the securities laws discharging its duties, if the proposed trustee is in any way connected with the securities market;
- (h) Description of manpower and logistic support to discharge its duties as a trustee;
- (i) Bio-data of the Chief Executive Officer and Compliance Officer;
- (j) CIB undertakings, where applicable.

Sd/-

Chief Executive Officer

Name of the proposed Trustee